

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Jay Connor,)	Civil Action No.: 2:12-01421-CWH
)	
Plaintiff,)	
)	
vs.)	
)	ORDER
ISI Alarms NC, Inc., Honeywell)	
International, Inc. dba Honeywell)	
Security Group, Jayson Waller Individually)	
and John Doe,)	
Defendants.)	
)	

On April 24, 2012, the plaintiff, Jay Connor (the “plaintiff”), acting pro se, filed this action alleging claims pursuant to the Telephone Consumer Protection Act of 1991 (“TCPA” or the “Act”), 47 U.S.C. § 227. On May 29, 2012, the defendant removed this action to the United States District Court for the District of South Carolina pursuant to 28 U.S.C. §§ 1331 and 1446. (ECF No. 1). On June 25, 2012, ISI Alarms NC, Inc., Jayson Waller, and Honeywell International, Inc. filed motions to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF Nos. 25-27). On July 30, 2012, the plaintiff filed a motion to amend his complaint. (ECF No. 32). On November 26, 2012, the plaintiff filed an amended complaint. (ECF No. 42).

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(g), D.S.C., this matter was referred to a United States Magistrate Judge for pre-trial proceedings and a report and recommendation (“R&R”). On November 13, 2012, the magistrate judge issued an R&R recommending that Honeywell International, Inc.’s motion to dismiss (ECF No. 27) should be granted in part and denied in part. Specifically, the magistrate judge recommended that Honeywell International, Inc.’s motion as to any claims pursuant to 47 C.F.R. §§ 64.1200(b)(1) and (b)(2) should be granted. In all other respects, the magistrate judge recommended that

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Honeywell International, Inc.'s motion (ECF No. 27) should be denied. In addition, the magistrate judge recommended that ISI Alarms NC, Inc.'s and Jayson Waller's motions to dismiss (ECF Nos. 25-26) should be denied. The magistrate judge specifically advised the parties of the procedures and requirements for filing objections to the R&R and the serious consequences if they failed to do so. The parties have filed no objections, and the time for doing so has expired.


The magistrate judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See Mathews v. Weber, 423 U.S. 261, 271 (1976). The Court may "accept, reject, or modify, in whole or in part," the recommendation made by the magistrate judge or "recommit the matter to the magistrate judge with instructions." 28 U.S.C. § 636(b)(1)(C). The Court is charged with making a de novo determination of any portion of the report of the magistrate judge to which a specific objection is made. Id. However, in the absence of an objection, the Court reviews the report only for clear error. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (stating that "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation") (internal quotation marks and citation omitted). Furthermore, the failure to file specific written objections to the R&R results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. Thomas v. Arn, 474 U.S. 140, 155 (1985); Wright v. Collins, 766 F.2d 841, 846 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

After reviewing the record of this matter, the applicable law, and the R&R of the magistrate judge, the Court agrees with the conclusions of the magistrate judge. Accordingly,

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the Court adopts and incorporates the R&R (ECF No. 38) by reference in this Order. Honeywell International, Inc.'s motion to dismiss (ECF No. 27) is GRANTED in part and DENIED in part. Specifically, Honeywell International, Inc.'s motion as to any claims pursuant to 47 C.F.R. §§ 64.1200(b)(1) and (b)(2) is GRANTED and in all other respects, the motion is DENIED. In addition, ISI Alarms NC, Inc. and Jayson Waller's motions to dismiss are DENIED (ECF Nos. 25-26).

AND IT IS SO ORDERED.



C. WESTON HOUCK
UNITED STATES DISTRICT JUDGE

January 22, 2013
Charleston, South Carolina

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